
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
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Proposed general increase in electric rates,	:	Docket No. 05-0597
general restructuring of rates, price unbundling	:	
of bundled service rates, and revision of other	:	
terms and conditions of service	:	
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PETITION FOR REHEARING AND RECONSIDERATION
OF
THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF CHICAGO

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Now comes the BUILDING OWNERS AND MANAGERS ASSOCIATION OF CHICAGO (“BOMA”), by its attorneys GIORDANO & NEILAN, LTD., and hereby submits to the Illinois Commerce Commission (the “Commission” or “ICC”) this Petition for Rehearing and Reconsideration in this proceeding pursuant to Section 200.880 of the Commission’s Rules of Practice.

On August 31, 2005, Commonwealth Edison Company (“ComEd”) filed proposed tariff sheets with the Commission seeking, among other things, a general increase in electric rates, a general restructuring of rates, and price unbundling of bundled service rates. On July 26, 2006 the Commission issued its final order (the “Order”) in this docket. BOMA supports the vast majority of the Commission’s findings and conclusions contained in the Order. However, the Order’s conclusion rejecting BOMA’s nonresidential space heating proposal and accepting ComEd’s proposal to eliminate its

bundled rate Rider 25 is contrary to law, not supported by substantial evidence and against the manifest weight of the evidence. Therefore, the Order should be modified as requested below.

1. For nearly three decades, ComEd has offered a bundled rate, Rider 25, which exempts nonresidential space heating consumers from demand charges on electricity used for space heating. (BOMA Ex. 1.0, pg. 9, ll. 188-194). In this proceeding ComEd proposed the elimination of its long-standing bundled rate Rider 25 and that nonresidential space heating consumers would be subject to the same unbundled rates (i.e., with separate delivery and supply charges) that will be applicable to nonresidential non-space heating consumers beginning on January 2, 2007. (ComEd Ex. 23.0, pg. 31, ll. 656-659).

2. The elimination of Rider 25 will cause massive rate shock for nonresidential space heating consumers because Rider 25 has provided them approximately a 17% discount from charges under ComEd's standard rates. (BOMA Ex. 1.0, pg. 8, ll. 164-174, pg. 10, ll. 207-213; BOMA Ex. 1.1; BOMA Ex. 1.2). Therefore, these customers will receive a double bang rate increase on January 2, 2007 under ComEd's proposal: a 17% increase from the elimination of Rider 25 plus an additional increase caused by the use of ComEd's auction to determine ComEd's supply charges.

3. In order to prevent this massive rate shock, BOMA proposed that the Commission order ComEd to continue its practice of exempting nonresidential space heating consumers from demand charges on electricity used for space heating in the delivery services tariffs adopted in this proceeding. (BOMA Ex. 1.0, pg. 11, ll. 237-241, BOMA Ex. 2.0, pg. 11, ll. 239-242). BOMA presented the expert testimony of Messrs.

T.J. Brookover, Kristav Childress and David McClanahan which showed that this approach was the best way to preserve separate rate treatment for nonresidential space heating consumers. (BOMA Ex. 1.0, pg. 11, ll. 237-245, BOMA Ex. 3.0, pg 3, ll. 58-66). The Order, however, both rejects BOMA's proposal and allows ComEd to eliminate Rider 25. (Final Order, pp. 218-219). The Commission bases its decision on the grounds "that purely on the basis of cost; [sic] a discount in the distribution facilities charge to nonresidential space heat customers is not justified." (Final Order, pg. 218).

4. The Commission's conclusion is clearly flawed because ComEd did not present any evidence regarding ComEd's cost to serve nonresidential space heating consumers and therefore did not meet its burden of proving that its proposed tariffs were just and reasonable for nonresidential space heating consumers. (220 ILCS 5/9-201(c)). Without such cost of service evidence, the Commission's decision to eliminate separate rate treatment for nonresidential space heating consumers is contrary to law, against the manifest weight of the evidence and unsupported by substantial evidence.

5. The Order's conclusion allowing ComEd to eliminate Rider 25 also violates Section 16-103(a) of the Act which provides, in relevant part, as follows:

An electric utility shall continue offering to retail customers each tariffed service that it offered as a distinct and identifiable service on the effective date of this amendatory Act of 1997 until the service is (i) declared competitive pursuant to Section 16-113, or (ii) abandoned pursuant to Section 8-508.

(220 ILCS 5/16-103(a)). ComEd's electric space heating tariff known as Rider 25 is a distinct and identifiable tariffed service that ComEd offered to nonresidential space heating consumers on December 16, 1997, which was the effective date of the Electric Service Customer Choice and Rate Relief Law of 1997. (220 ILCS 5/16-101 et seq.).

ComEd's elimination of the electric space heating tariff Rider 25 violates Section 16-103(a) of the Act because the Commission has not declared service to nonresidential space heating consumers competitive pursuant to Section 16-113 of the Act, nor has ComEd abandoned this service pursuant to Section 8-508 of the Act. Therefore, the Order erred as a matter of law when it approved ComEd's elimination of Rider 25.

6. Accordingly, BOMA respectfully requests that the Commission revise the Order to require ComEd to continue to offer its current Rider 25 tariff to nonresidential space heating consumers or in the alternative order ComEd to exempt nonresidential space heating consumers from demand charges on electricity used for space heating in its delivery service tariffs adopted in this proceeding.

CONCLUSION

WHEREFORE, for the above-stated reasons, BOMA respectfully requests that the Commission grant BOMA's Petition for Rehearing and Reconsideration and revise the Order as requested herein.

Respectfully submitted,

**BUILDING OWNERS AND
MANAGERS ASSOCIATION OF
CHICAGO**

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